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**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

FROM: TLMA and Planning Department

SUBMITTAL DATE:
June 24, 2013

SUBJECT: FAIRSCORE Committee Progress Report

RECOMMENDED MOTION: That the Board of Supervisors:

1. Receive and file the attached report (Attachment "A") from the FAIRSCORE committee;
2. Consider the Committee's recommendation of Option 5, in Attachment "C"; and,
3. Direct the Planning Department and County Counsel to prepare the appropriate documents in accordance with the Board's action.

Carolyn Syms Luna

 Carolyn Syms Luna
 Planning Director
 JCP/dlp
 (Continued On Attached Page)

Juan C. Perez

 Juan C. Perez
 Director of Transportation and Land Management

Departmental Concurrence

FORM APPROVED COUNTY COUNSEL
 BY: *Michelle Clack*
 DATE: 6/25/13
 MICHELLE CLACK

FINANCIAL DATA	Current F.Y. Total Cost:	\$ N/A	In Current Year Budget:	N/A
	Current F.Y. Net County Cost:	\$ N/A	Budget Adjustment:	N/A
	Annual Net County Cost:	\$ N/A	For Fiscal Year:	2012/2013

SOURCE OF FUNDS: N/A	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE
Tina Grande
 BY: _____
 Tina Grande

County Executive Office Signature

Dept't Recomm.: Consent Policy
 Per Exec. Ofc.: Consent Policy

Prev. Agn. Ref. 3-59 11/20/12
 3-33 01/08/13
 3-61 02/26/13

District: ALL **Agenda Number:**

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

3-54

The Honorable Board of Supervisors
RE: FAIRSCORE Committee Progress Report
June 24, 2013
Page 2 of 2

BACKGROUND: At its January 8, 2013 meeting, the Board of Supervisors approved the appointment of a committee to participate in the Facilitate Accredited Impartial Required Studies County Entities (**FAIRSCORE**) process. This committee was tasked with assessing the County's current environmental review and consultant selection process and make recommendations to the Board of Supervisors on appropriate changes and enhancements that will result in a more open, transparent, and effective environmental review process.

The Committee held meetings as follows, January 30, 2013, February 27, 2013, April 3, 2013 and May 22, 2013. These meetings were conducted in accordance with the Brown Act and were open to the public.

The Committee's work effort resulted in the preparation of the following Attachments:

Attachment "A" – Contains **FAIRSCORE** Committee report and recommendation.

Attachment "B" – Identifies Stakeholders and their respective goals relative to this process.

Attachment "C" – Identifies the options considered by the Committee and recommended Option No. 5.

Attachment "A"

FAIRSCORE Ad Hoc Committee Report

BACKGROUND:

In response to direction from the County Board of Supervisors, the FAIRSCORE Ad Hoc Committee (Committee) reviewed the current County of Riverside Environmental Impact Report preparation process; including consultant selection, contract procedures, and the County/Consultant Memorandum of Understanding to identify opportunities to enhance transparency and improve the process.

A. COMMITTEE ACTIONS:

The Committee completed the following actions and analysis as part of its work effort:

1. Reviewed the current Riverside County EIR process and procedures;
2. Reviewed the EIR preparation process utilized by nine other jurisdictions in Southern California, including 5 counties and 4 cities;
3. Identified five (5) Stakeholders invested in the process of preparing EIR's in Riverside County;
4. Identified eight (8) "Stakeholder Goals" for the preparation of EIR's in Riverside County;
5. Identified five (5) EIR preparation/procedure "Options" based on the processes utilized in other jurisdictions as well as the current County process;
6. Evaluated the EIR preparation/procedure "Options" against the identified "Stakeholder Goals" to assess the extent to which each of the "Stakeholder Goals" was met by each "Option".

As a result of the analysis and evaluation, 4 of the 5 Committee members agreed that the current County process with protocols for Peer Review best achieved the identified "Stakeholder Goals", compared to the other "Options".

The majority of the Committee agreed that the current County process, which allows the Applicant to select a consultant from the approved Consultant list, should be modified to improve County Staff oversight, transparency of the process and consultant accountability.

B. DETAILS OF THE ANALYSIS UNDERTAKEN BY THE COMMITTEE:

1. The EIR preparation procedures of the following jurisdictions were provided by staff and were reviewed by the Committee:
 - a. Los Angeles County
 - b. San Diego County
 - c. San Bernardino County
 - d. Orange County
 - e. Imperial County
 - f. City of Temecula
 - g. City of Murrieta
 - h. City of Riverside
 - i. City of Moreno Valley

2. The five Stakeholders invested in the EIR process include:
 - a. The Public
 - b. The County
 - c. The Applicant
 - d. The Prime Consultant
 - e. Responsible Agencies
3. The eight Stakeholder goals were identified as:
 - a. Public Participation and Transparency
 - b. Best Possible Project
 - c. Legally Defensible Document
 - d. County Staff Oversight
 - e. Clear Procedures
 - f. Time Efficiency
 - g. Cost Efficiency
 - h. Fair and Open Process for Consultant Selection
4. The five EIR Preparation/Procedure "Options" included:
 - a. Full County Staff Responsibility
 - b. Shared County Staff Responsibility
 - c. Third Party Contract
 - d. Current County Process
 - e. Current County Process with Protocols for Peer Review

C. FUNDAMENTAL CONSIDERATIONS

The Committee discussed the setting surrounding the preparation of CEQA documents, and agreed that the following facts should be recognized during any discussion pertaining to the preparation methodology for CEQA documents and especially EIR preparation:

1. Some projects are controversial;
2. Projects that are controversial tend to be challenged;
3. CEQA has become a method for challenging controversial projects;
4. All the identified Stakeholders share the benefits of a well prepared document;
5. Regardless of who prepares the document or what process is used, controversial projects are likely to be challenged.
6. The best outcome in the CEQA process occurs when impacts are identified early and are mitigated by design.

COMMITTEE RECOMMENDATION (ATTACHMENT "C", OPTION NO. 5):

The Committee recommends to the Board of Supervisors that the County of Riverside modify the current County process for the preparation of Environmental Impact Reports as follows:

A. COUNTY EIR QUALIFIED CONSULTANT LIST

1. Establish minimum qualifications for Prime Environmental Consultants as follows:

- a. Three years of experience preparing CEQA documents in Southern California;
 - b. Proof of preparation of three MNDs and/or EIRs;
 - c. Three references for preparation of MNDs and/or EIRs;
2. Staff to conduct interviews with Prime Environmental Consultants meeting the minimum qualifications to confirm acceptability prior to inclusion on the qualified list.
3. County staff shall prepare procedures for maintaining the Prime Environmental Consultant qualified list.

B. MEMORANDUM OF UNDERSTANDING:

1. Modify the current MOU to create a Two-Party MOU between the Prime Environmental Consultant and the County which establishes the relationships and responsibilities for inclusion on the Qualified Consultant List. Such MOU shall be executed upon selection of the Prime Environmental Consultant for the Qualified Consultant List.
2. Modify the current MOU to create a Three-Party MOU between the Prime Environmental Consultant, the applicant, and the County which establishes the relationships and responsibilities for the preparation of the environmental documents.
3. County staff shall establish sanctions to be enforced in the event of breach of the MOU.

C. PEER REVIEW OF EIRs:

1. Establish a mechanism to allow staff to require Peer Review of CEQA Documents and/or technical studies.

D. PUBLIC TRANSPARENCY AND PARTICIPATION :

Staff shall do the following:

1. Establish procedures for notification of affected individual property owners by mail or electronic media for projects where an EIR will be prepared as part of the CEQA Notice of Preparation.
2. Establish procedures for notification of affected individual property owners by mail or electronic media regarding the time, place and location of EIR Public Scoping Sessions.
3. Establish procedure for posting environmental documents and technical studies online during the Public Review Period, and final environmental documents and technical studies prior to public hearings and following certification of the EIR.
4. Establish procedures for physically posting those properties subject to an EIR public review period.

Attachment "B"

FAIRSCORE ANALYSIS MATRICES

Stakeholder Goals Analysis						
		Stakeholders				
		County	Public	Applicant	Consultants	Responsible Agencies
Goals	1. Public Participation & Transparency	X	X			X
	2. Legally Defensible Documents	X		X	X	X
	3. County Staff Oversight	X				X
	4. Clear Procedures	X	X	X	X	X
	5. Best Possible Project	X	X	X	X	X
	6. Time Efficient	X		X	X	
	7. Cost Efficient	X		X	X	
	8. Fair and Open Consultant Selection Process	X		X	X	

Procedure Options Analysis									
		Goals							
		Public Participation & Transparency	Legally Defensible Documents	County Staff Oversight	Clear Procedures	Best Possible Project	Time Efficient	Cost Efficient	Fair and Open Selection Process
Procedure Options	Full County Staff Responsibility	Green		Green	Green	Red	Red	Red	Red
	Shared County Staff Responsibility	Green		Green	Green	Red	Red	Red	Red
	Third Party Contract	Green		Green	Green	Red	Red	Red	Red
	Current County Process	Red		Green	Red	Green	Green	Green	Green
	Current County Process w/ Protocols for Peer Review	Green		Green	Green	Green	Red	Red	Green

Key:

Green squares indicate the process provides an advantage for each goal.

Red squares indicate the process provides a disadvantage for each goal.

Clear square indicates process and goal are independent.

Attachment "C"

FAIRSCORE Committee Program Options

COMMITTEE RECOMMENDATION: By a vote of 4-1, the Committee voted in favor of Option 5, "Current Process with Protocols for Peer Review"

OPTION 1 Full County Staff Responsibility	OPTION 2 Shared County Staff Responsibility	OPTION 3 Third Party Contact	OPTION 4 Current Process	OPTION 5 Current Process with Protocols for Peer Review
<p>ADVANTAGE: County Staff Oversight is improved; Public Participation and Transparency is slightly improved; Clear Procedures</p> <p>DISADVANTAGE: Cost Inefficiencies; Time Inefficiencies; Does not result in Best Possible Project; is not a Fair and Open Process for Consultant Selection</p>	<p>ADVANTAGE: Clear Procedures, County Staff Oversight, Public Participation and Transparency</p> <p>DISADVANTAGE: Cost Inefficiencies; Time Inefficiencies; Does not result in Best Possible Project, and is not a Fair and Open Process</p>	<p>ADVANTAGE: Fair and Open Process, Clear Procedures, County Staff Oversight, Public Participation and Transparency</p> <p>DISADVANTAGE: Cost Inefficiencies; Time Inefficiencies, and does not result in Best Possible Project</p>	<p>ADVANTAGE: Cost Efficient, Time Efficient, Results in Best Possible Project, Fair and Open Process, and County Staff Oversight</p> <p>DISADVANTAGE: Lack of Clarity in some Procedures and Less Public Participation and Transparency</p>	<p>ADVANTAGE: Best Possible Project, Fair and Open Process, Clear Procedures, County Staff Oversight, and Public Participation and Transparency</p> <p>DISADVANTAGE: Cost Inefficient and Time Inefficient</p>
<p>PROGRAM OUTLINE:</p> <ol style="list-style-type: none"> a. County staff establishes and maintains a list of Qualified Consultants b. County staff prepares and distributes RFP for project responses/selects Prime Consultant for project c. County staff negotiates and administers contract with Prime Consultant d. Applicant has no contact or restricted contact with Prime Consultant f. Applicant is billed for County staff and Consultant efforts 	<p>PROGRAM OUTLINE:</p> <ol style="list-style-type: none"> a. County staff establishes and maintains a list of Qualified Consultants b. County staff prepares RFP and distributes to Qualified Consultants selected by the Applicant c. County staff and Applicant evaluate responses, agree on prime Consultant d. Applicant negotiates and administers contract with Prime Consultant e. Applicant and Prime Consultant have restricted contact (staff present) f. Applicant is billed for County staff and Consultant efforts 	<p>PROGRAM OUTLINE:</p> <ol style="list-style-type: none"> a. County staff establishes and maintains a list of Qualified Consultants b. County staff prepares RFP and distributes only to a limited number (3-5) of Qualified Consultants selected by the Applicant c. County reviews responses and selects one (1) Prime Consultant d. County staff negotiates and administers contract e. Applicant and Prime Consultant have restricted contact (staff present) f. Applicant is billed for County staff and Consultant efforts 	<p>PROGRAM OUTLINE:</p> <ol style="list-style-type: none"> a. County staff establishes and maintains a list of Qualified Consultants b. Applicant selects and negotiates with Consultant team c. Applicant administers contract d. Applicant works closely with Consultant e. Peer review of any or the entire work product of the Consultant selected by the Applicant is required, as determined by County staff or other criteria f. Applicant responsible for cost of peer review g. Applicant is billed for County staff and Consultant efforts 	